

NAVAL WAR COLLEGE
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THE WEAPONS OF MASS DESTRUCTION THREAT,
HOMELAND DEFENSE, AND JFCOM

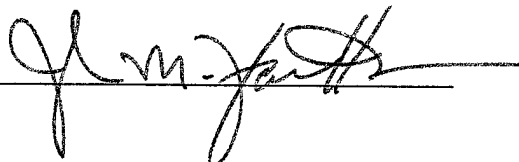
By

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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Abstract of

**THE WEAPONS OF MASS DESTRUCTION THREAT, HOMELAND DEFENSE,
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The national security threats to the United States have changed since the end of the Cold War. Instead of the stable and predictable foe presented by the Soviet Union, there is a multitude of smaller enemies wholly unable to compete on the battlefield. During a confrontation with the United States, these lesser adversaries may choose to use weapons of mass destruction in an asymmetrical attack on the American homeland. Such an attack may be indistinguishable from a terrorist attack, making offensive response-in-kind virtually impossible.

During the 1990s there has been a great deal of attention focused on how the United States can best confront this new threat. Deterrence is best accomplished with a combination of counterproliferation and consequence management. Executive directives and congressional legislation have focused on using domestic civil response capabilities as the primary tool with the military in the supporting role. This methodology is in keeping with the American tradition of keeping the military removed from domestic activities. But the magnitude of the impact a WMD event will have on American society dictates military involvement to effectively deter and, if necessary, respond in the aftermath of such an attack.

To adequately address the danger posed by a WMD attack the U.S. military needs to have dedicated active-duty alert forces assigned to a standing Joint Task Force (JTF). Legislation to relieve the military of Posse Comitatus restraints is also needed.

*"I believe the proliferation of weapons of mass
destruction presents the greatest threat that the world
has ever known."
Secretary of Defense William Cohen, January 1997¹*

NATIONAL SECURITY AND WEAPONS OF MASS DESTRUCTION

The threat to United States national security has changed over the last ten years and the focus of American response planning and capability needs to change with it. A threat that was predictable, stable, and symmetrical during the Cold War has become uncertain, unstable, and asymmetrical in the aftermath of victory. Instead of Motorized Rifle Divisions through the Fulda Gap, the United States faces the prospect of terrorist-type* attacks against its homeland. The likelihood that an attack will include the use of a weapon of mass destruction (WMD) and the accompanying catastrophic aftermath rises with the increasing availability of WMD and in direct response to America's overwhelming dominance on the battlefield.

A terrorist-type attack using WMD would have a significant impact on American society. A WMD event is not a natural disaster; it is an attack on the citizens of the United States and a direct assault on the national security and the well being of the American people. The magnitude of a WMD attack is highlighted in the US national security strategy, which acknowledges that these weapons provide "...the means to inflict terrible damage on the United States, our allies and US citizens and troops abroad."² The United States has never experienced the effects of an unnatural disaster of the magnitude associated with a WMD event. As Carter, Deutch, and Zelikow point out:

* The term "terrorist-type" is used to denote an attack by means other than conventional military means, regardless of the target. These attacks are covert in nature, but are not necessarily at the behest of a non-state organization.

It (a WMD terrorist-type attack) would involve loss of life and property unprecedented in peacetime and undermine America's fundamental sense of security, as did the Soviet atomic bomb test in 1949. Like Pearl Harbor, this event would divide our past and future into a before and after.³

The analogy to the Japanese attack on Pearl Harbor is an excellent one. The impact of the Pearl Harbor attack was seminal to US security strategy throughout the Cold War, manifested in the Strategic Air Command's continuous alert readiness posture. A "bolt from the blue" nuclear attack was seen as the greatest threat to America and is to this day addressed with a credible nuclear deterrent force and sophisticated attack warning system. The United States retains strategic nuclear forces to "deter hostile foreign leadership with access to nuclear weapons from acting against our vital interests."⁴

A country in conflict with the United States will have no hope of prevailing on the battlefield, consequently an enemy will be forced into finding other methods of persuasion. In this scenario, an attack on the US homeland is not only possible, but also logical. The WMD threat constitutes a military threat to the United States' homeland and requires a military counter to deter and defend.

THESIS

The threat of an attack on the United States with weapons of mass destruction is a matter of vital national security and needs to be addressed as a matter of homeland defense. As such, the operational commander responsible for employing military forces in response to a WMD event needs greater authority to organize, train, and employ US military forces without constraint by the Posse Comitatus Act or political and cultural biases.

MAGNITUDE OF THE WMD THREAT

Senator Sam Nunn classified the threat of a WMD attack on the territory of the United States as the “number one national security challenge.”⁵ A recent reassessment by the U.S. Commission on National Security for the 21st Century classified national interest in terms of survival, critical, and significant. The “survival” paragraph started with:

U.S. **survival** interests include America’s safety from direct attack, especially involving weapons of mass destruction, by either states or terrorists.⁶

A WMD attack within the United States would have an impact on the psyche of the populace similar to that of Pearl Harbor because mass communication would instantly put the images into every American household. Today, the images of the destruction wrought by a terrorist act on the Murrah Federal Office Building in Oklahoma City, such as the photograph presented in Figure 1, are far more vivid than any natural disaster or the conditions prompting American involvement in Haiti or Somalia. This is how Federal Emergency Management Agency (FEMA) Director James Witt characterized the Oklahoma City bombing:

...I have seen disasters and tragedy. I have seen homes washed away by floods, cities crumbled by earthquakes and communities blown apart by hurricanes. Nothing compares to the Oklahoma City bombing -- the senseless horror and the unnecessary loss of lives. It was not a random act of nature, but a deliberate act of man.⁷

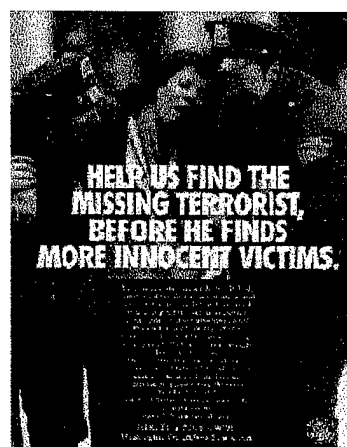
And this incident involved the use of easily obtained materials employed as explosives, not an exotic nuclear, chemical, or biological device.

The 1993 bombing of the World Trade Center had a similarly disproportionate effect on the psyche of the American people because it represented an attack by foreign elements

upon innocent citizens. The Department of State characterized the attack with the poster shown at Figure 1 and described the event as follows:

At approximately 12 noon on February 26, 1993, a massive explosion rocked the World Trade Center in New York City, causing millions of dollars in damage. The terrorists who bombed the World Trade Center murdered six innocent people, injured over 1,000 others, and left terrified school children trapped for hours in a smoke-filled elevator.⁸

Figure 1
Murrah Federal Building, Oklahoma City⁹ World Trade Center Bombing Poster¹⁰



The National Security Strategy defines the physical security of US territory and the safety of American citizens from attack as vital national interests.¹¹ Protecting vital national interests is the *raison d'etre* for any government. Preparation is the key to deterring and preventing an attack. While the terrorist/WMD threat has received a great deal of attention, it is still uncertain that the United States has appreciably reduced the threat.

MEASURES TAKEN TO COUNTER THE THREAT

The US government has not ignored the possibility of a WMD terrorist-type attack. There has been a marked increase in the rhetoric and legislation directed at countering

terrorism, as evidenced in Presidential Decision Directives (PDD) 39 and 62. The congress has likewise responded with the Defense Against Weapons of Mass Destruction Act of 1996.

PDD-39: US Policy on Counterterrorism (June, 1995)

The stated policy of the United States is to deter, defeat, and respond vigorously to all terrorist attacks on American territory or against American citizens or facilities, whether domestically, in international air or sea space, or on foreign territory.¹² The US considers terrorism a threat to national security as well as a criminal act and will take steps to counter and combat it.¹³ PDD-39 further defines US policy on: reducing vulnerabilities to terrorism, both domestically and internationally; deterring terrorists and terrorist acts; responding to terrorism directed against Americans; and prioritizing US policies regarding the use of weapons of mass destruction by a terrorist group against the United States.

Within the section on deterrence of terrorism, PDD-39 tasks the cabinet secretaries to ensure their organizations' counter-terrorism capabilities are "well managed, funded and exercised."¹⁴ The United States policy on response to terrorism in PDD-39 requires:

...the ability to respond rapidly and decisively to terrorism directed against us wherever it occurs, to protect Americans, arrest or defeat the perpetrators, respond with all appropriate instruments against the sponsoring organizations and governments and provide recovery relief to victims, as permitted by law.¹⁵

The Response to Terrorism subsection also delineates leadership and composition of Emergency Support Teams, both foreign and domestic. The State Department leads the Foreign Emergency Response Team (FEST) and the FBI heads the Domestic Emergency Response Team (DEST). The Department of Defense is tasked to provide timely transportation for the teams.¹⁶

Consequence Management responsibilities are placed under the direction of the FEMA. FEMA has responsibility for developing the Federal Response Plan and insuring it is adequate to respond to the consequences of a large-scale terrorist event in the United States, to include response to an attack by a weapon of mass destruction. FEMA is to accomplish this by ensuring the individual states' response plans are "adequate and their capabilities are tested."¹⁷ DOD's role is defined as "providing assistance to *foreign* populations in the aftermath of a terrorist event (emphasis added)."¹⁸

Weapons of Mass Destruction are succinctly handled in a single paragraph. PDD-39 states that the United States places the "highest priority" on countering nuclear, biological, or chemical (NBC) materials or weapons and classifies the possession of WMD by terrorists as "unacceptable." The section closes emphatically by stating "There is no higher priority than preventing the acquisition of this capability or removing this capability from terrorist groups potentially opposed to the US."¹⁹

PDD 62: Combating Terrorism (May 1998)

PDD-62 stipulates that the United State's overwhelming military superiority serves to increase the threat of an asymmetrical terrorist-type attack from a foreign adversary in lieu of conventional military assaults. Countering this threat, the directive states, requires a "new and more systematic approach to fighting the terrorist threat."²⁰ The roles of US agencies identified in PDD-39 are reinforced and, most significantly, PDD-62 establishes the Office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism. The responsibilities of the new office include overseeing the national policies and programs on counter-terrorism, protection of critical infrastructure, preparedness, and consequence management for weapons of mass destruction. The National Coordinator

works within the National Security Council and reports to the President through the National Security Advisor. The National Coordinator is also tasked to provide budget advice and develop guidelines for crisis management.²¹

While the National Coordinator can act as a focal point for national planning, the position is not authoritative in the allocation and prioritization of resources within the departments called upon to respond to a WMD event.²² The Departments of Defense, Justice, Transportation, etc., continue to establish their own spending priorities

Defense Against Weapons of Mass Destruction Act of 1996

The US Congress has placed a great emphasis on countering the threat of WMD to US national security and interests. According the Senator Sam Nunn, co-author of the bill, the purpose of the act is to:

...address the nation's critical lack of preparedness for what is arguably the most serious threat to our national security: the proliferation of weapons of mass destruction. Presently, our cities and towns are not equipped to deal with a chemical, biological, radiological, or nuclear incident, and present efforts to reduce this threat are *unfocused and scattered across dozens of departments and agencies in a patchwork scheme which suffers from lack of coordination and overlap.* (emphasis added)²³.

The legislation was aimed at increasing US domestic preparedness to respond to WMD threats and improving consequence management in the event of an incident. Domestic preparedness was addressed in Section 1311 and required the Secretary of Defense to provide training and advice to federal, state, and local officials responsible for consequence management in nuclear-biological-chemical (NBC) emergency.²⁴

Senator Nunn expanded on the intent of the bill at a Nuclear Roundtable discussion in July of 1996. He called the threat of an attack on American citizens by terrorists or hostile powers using WMD as "the most urgent national security problem America faces."²⁵

He stated that, in contrast to the Cold War, with its high risk and high stability and predictability, the post-Cold War period has lower risk but far less stability.²⁶ The threat of a nuclear counter-strike offers little deterrent value in an asymmetric confrontation.

Senator Nunn remarked that by their own admission, America's local first-responders to a WMD event are not prepared. Those same police and fire department leaders identified the U.S. military (and Department of Energy) as the sole holders of the required expertise to effectively 'answer the call.' Senator Nunn emphasized that this was borne out during an exercise of local, state, and federal civil response capabilities, where the first one hundred personnel on scene exposed themselves to "deadly" contaminants.²⁷

On the federal side, even the agencies identified as most ready (Defense and Energy) acknowledged serious limitations to their ability to respond. In a recent report to Congress concerning preparedness for this kind of attack, they noted: "Response personnel are relatively few in number, and pieces of equipment necessary to provide adequate support to an NBC attack are, in some cases, one of a kind."²⁸ Senator Arlen Specter, vice chairman of a bipartisan commission on the federal WMD response capability, summarized his view of US preparedness in this way: "the country is somewhere between anarchy and bedlam in dealing with the threat of terrorism."²⁹

The Unified Command Plan

The Unified Command Plan of the United States Department of Defense establishes the missions, responsibilities, and force structure for commanders of unified combatant commands. The plan tasks the United States Joint Forces Command (USJFCOM) with providing military assistance to civil authorities in the event of a WMD incident within the United States. USJFCOM is also required to provide military support to US civil authorities

(MSCA) and military assistance for civil disturbances (MACDIS), subject to SECDEF approval.³⁰

The plan further recognizes the demanding scale of operations associated with consequence management of a WMD event and dictates that USJFCOM efforts “must be integral to wider strategic, operational, and total force planning.”³¹ To facilitate the concentration of effort and maintain the degree of Department of Defense readiness deemed necessary, the plan directs establishment of a Joint Task Force for Civil Support subordinate to USJFCOM. The plan stipulates that, regardless of organization, the Department of Defense must ensure that “all missions are effectively accomplished, the strategy of forward engagement remains intact, and the primacy of civil authority in domestic response is maintained.”³²

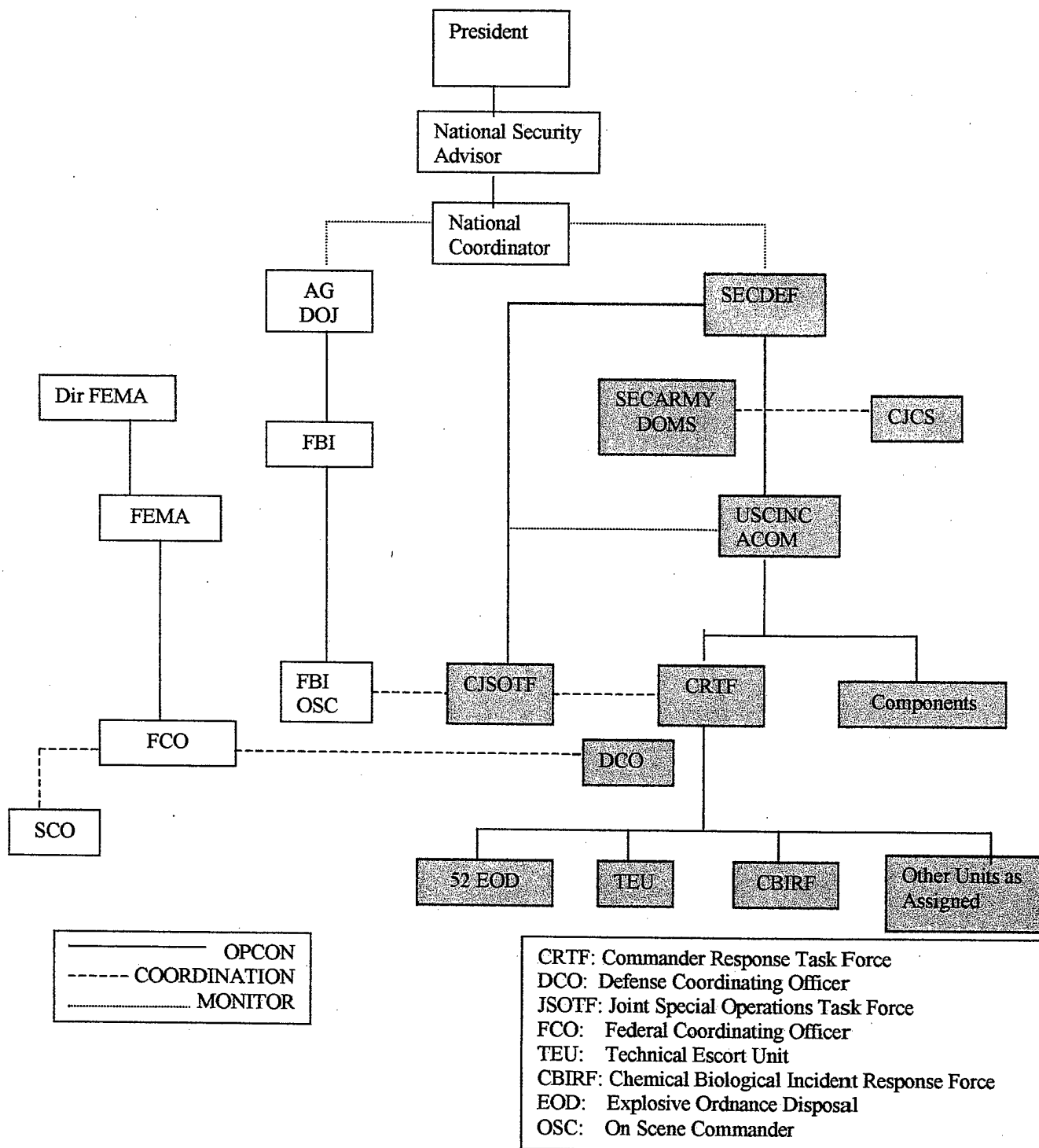
But the command plan expresses some concern about the ability of USJFC to respond to the “scale of operations required for WMD consequence management” when it states that “the Department’s [DOD] specific roles require greater definition.”³³

CURRENT MILITARY ORGANIZATION

Figure 2 depicts the current organization for crisis or consequence management. The shaded areas are Department of Defense agencies and the unshaded are the federal civilian organizations. Coordination lines, not command lines, connect them. Only Department of Defense personnel direct the actions of the military elements involved in crisis or consequence management. (Note: USCINACOM was redesignated USJFCOM in October 1999, the most current FUNCPLAN 2501-XX has not been updated to reflect the change as of the date accessed.)

Figure 2³⁴

Command Structure for Crisis/Consequence Management



The military response elements come from a variety of sources, but the bulk of forces are planned to come from the National Guard and Reserves. The self-described “point of the spear” for WMD response is the Rapid Assessment and Initial Detection Element (RAID). These National Guard units are comprised of experts from a cross-section of specialties that can rapidly deploy and assess a WMD event. They then advise the local, state, and federal response elements. The RAID elements represent the first military responders and are designed to have a four-hour response-to-scene capability.³⁵ During employment, it is anticipated that RAID units will remain in state-controlled status.³⁶

POSSE COMITATUS ACT OF 1878

The Posse Comitatus Act has governed the use of the military in American domestic activity since the end of Reconstruction. Its relevance to the topic lies directly in the use of the military for active defense of the homeland, a task that would undoubtedly cross provisions of the act during the chaotic aftermath of a WMD event. Today, planning for the use of military forces is careful to acknowledge and account for the provisions of the Act. This makes it important to understand prior to arguing for changes to the law.

Background

The Posse Comitatus Act (PCA) of 1878 is found in Title 18 of the US Code, Section 1385 and states:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a “posse comitatus” or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both.”³⁷

Posse comitatus means, literally, power of the county.³⁸ A posse comitatus was defined under English common law as the power of the sheriff of every county to summons every person fifteen years or older to assist in keeping the peace and pursuing felons.³⁹ A frontier sheriff "rounding up a posse" to "go after the bad guys" has been a staple of American folklore. But the use of American *citizenry* was not the impetus for the Posse Comitatus Act (PCA), rather it was the use of the U.S. Army to supplement federal, state, and local law enforcement that eventually led to its enactment.

The aftermath of the Civil War provided the genesis for the Posse Comitatus Act. Federal soldiers were first an occupying force and then an administrative entity superior to or in place of the local governments in the defeated Confederate states. With no state militias to call upon, it fell to regular army troops to keep order and protect civil rights while the individual states of the former Confederacy transitioned back into the Union. But the presence of armed troops responsible to the President caused political friction and suspicion of the military. Allegations of wrongdoing followed the 1876 presidential election when Republican candidate Hayes was elected by a single electoral vote. There was a perception within the Democrat-controlled congress that federal troops had participated in or at least had facilitated election fraud in southern states still under occupation. The congressional response was the Posse Comitatus Act of 1878.⁴⁰ Representative Knott of Kentucky said the act was passed "to put a stop to the practice, which has become fearfully common, of military officers of every grade answering the call of every marshal to aid in the enforcement of laws."⁴¹ Thus ended the use of the federal military to enforce civil law except at the behest of the president or with the express permission of congress.

American resistance to the use of the army in a law enforcement role was evidenced at the very birth of the nation. The US Declaration of Independence cited among the grievances held against the King that he had:

1. "kept among us, in time of peace, standing armies without the consent of our legislatures"
2. "affected to render the military independent of and superior to the civil power"
3. "quartered large bodies of armed troops among us"⁴²

The distaste for standing professional armies left by the occupation of the British found an outlet in the Constitution, which placed the burden of national security in the state militia. The militia was seen as a non-threatening assemblage of citizen soldiers called forth from their farms to meet the modest situational needs of the new nation. But the Constitution did recognize the possible need to employ military force domestically in Article I, Section 8, tasking Congress with the responsibility to "provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions." The President's complementary responsibilities are in Article II, Sections 2 and 3, giving the President command of the military and federalized militia (section 2) and the charge to "take care that the laws be faithfully executed."⁴³ This was interpreted to mean that the president could use the federalized militia to enforce laws.

Alexander Hamilton noted in the Federalist Papers that the "national government may be necessitated to revert to force" when faced with domestic disturbances or insurrection.⁴⁴ This turned out to be true. Through 1879, the regular army had participated equally in fighting foreign foes and domestic disturbances. The domestic disturbances ran the spectrum of unrest, from labor disputes to draft riots to racial disorders, culminating in the ultimate civil disturbance, the American Civil War.⁴⁵

Modern Applications

The Posse Comitatus Act has modern relevance. The active-duty Army and Air Force (and through Department of Defense directives, the Navy and Marine Corps) may not be used in lieu of civil law enforcement. This has been interpreted to mean federal military forces cannot be used to supplement civil law enforcement for the purposes of: search and seizure; interdiction or pursuit of a vehicle; arrest, stop and frisk, or similar activity; and surveillance or undercover investigation.⁴⁶

The National Guard and Air National Guard, the modern-day militia, are exempt from the provisions of the Act unless in federal service. This frees their use by state governors for response to disasters or civil disturbances unencumbered by the limitations placed on the active forces. The National Guard, while under state control, can be used to direct traffic, pursue, arrest and detain looters or others committing criminal acts, and use force in the accomplishment of these activities.

There have been some prosecutions under the PCA, but there has never been a conviction. The courts have established the following specific criteria for violation of the PCA:

1. The military performs tasks which are assigned to an organ of civil government
2. The military performs tasks assigned to them solely for the purposes of civilian government⁴⁷

Further, the courts have held that when military personnel assist civilian law enforcement officials, the PCA is violated:

1. When civilian law enforcement officials make "direct and active use" of military investigators
2. When the use of the military "pervades the activities" of the civilian officials

3. When the military is used so as to subject "citizens to the exercise of military power which was regulatory, prescriptive, or compulsory in nature"⁴⁸

Changes To PCA

The PCA was modified in the 1982 Department of Defense Authorization Act to allow greater participation by the military in the drug war. The changes were incorporated into Title 10, US Code in sections 371-375. Section 371 allowed the military to share information concerning violations of the law with civilian law enforcement. It requires the military to consider the needs of civilian law enforcement when planning operations. The Department of Defense was allowed to make equipment and facilities available to law enforcement agencies in Section 372. This section was later amended in 1988 to clarify its meaning as including spare parts and supplies and then modified again in 1996 for equipment and facilities used in a chemical or biological emergency.⁴⁹

Section 373 allowed DOD personnel to train civilian law enforcement in the use of the equipment identified in Section 372, and Section 374 allowed DOD personnel to operate and maintain the equipment while assisting civilian law enforcement agencies.⁵⁰ But Section 375 emphasizes that sections 371-374 still do not allow the military to directly participate in searches, seizures or arrests.⁵¹

In 1997 the PCA was amended to account for the threat of WMD terrorism. The law was changed to allow the Department of Defense to assist in enforcement of the biological and chemical WMD statutes in emergencies. The statute still forbids the making of arrests, search or seizure, or gathering of intelligence for law enforcement.⁵²

OPERATIONAL COMMANDER'S CONSTRAINTS

The United States Joint Forces Command (USJFCOM) is responsible for Military Support to Civilian Authorities within the continental United States (CONUS).⁵³ USJFCOM describes the threat of a terrorist incident involving WMD within CONUS as "a low probability, high risk event" in their Functional Plan (FUNCPLAN) 2501-97.⁵⁴ The same FUNCPLAN acknowledges that state and local emergency response personnel are inadequately trained or prepared for WMD incidents, and that the expertise and resources of the Department of Defense, in coordination with federal, state, and local agencies, is needed to adequately respond.⁵⁵ The plan goes on to acknowledge that the consequences of a WMD event "may overwhelm existing federal capabilities as well."⁵⁶

CONUS response to a WMD attack relies heavily upon the National Guard and Reserves. Overall, 60% of chemical and biological decontamination capability is in widely dispersed Guard and Reserves units.⁵⁷ The benefits of placing this responsibility and capability in reserve forces are the accumulation of training expertise and avoidance of detracting from the active military's preferred missions. Guard personnel trained in Crisis and Consequence Management skills will remain with their unit for long periods of time, not being subject to the frequent rotations of active duty personnel. This secures the skills taught in initial and recurring training, keeping them available for as long as a member stays in the Guard. By placing the mission in the Guard, active duty units are relieved of a mission that does not involve direct force-on-force exchange with an enemy.

The liabilities of these organizations lie in readiness, responsiveness and politics. Simply, reserve elements are just that, reserves. They require activation and mobilization prior to use. They may need refresher training for currency prior to employment.

Additionally, the service secretaries are limited to an involuntary call-up period of only 15 days.⁵⁸

The National Guard has a dual loyalty designed into their organization, as they are responsible both to the home state and to the federal government. Political resistance is sure to surface if State X's Guard unit is called upon to respond to a WMD Crisis/Consequence in State Y while State X remains vulnerable to the same type of attack. Likewise, states without a WMD response capability in their Guard will certainly feel exposed and unprepared.

The limited active-duty military resources available to confront a terrorist-type WMD attack in the CONUS will almost certainly be called upon to deploy to any hot or potentially hot theater. The ability to operate in an NBC hostile environment is a direct tasking in the National Military Strategy.⁵⁹ Once deployed, these assets will no longer be available for CONUS use in the event of a direct homeland attack.

RECOMMENDATIONS

A WMD attack on the United States would be tragic and devastating for those directly effected. But the national security impact would emanate not just from physical destruction but more from the psychological effect upon the citizens and the requisite response they would demand. Caught unprepared, U.S. response could seem panicked, inciting disproportionate emotional cries for action and knee-jerk reprioritization of energies by political leadership. A clever enemy could use this response to his advantage. The Air Force refers to this as "effects-based targeting." The effect realized would be a disproportionate disruption of American society with the use of a single WMD device.

Policy and rhetoric do not deter an enemy. Capability and will are required to credibly deter and, if necessary, defend the United States against WMD attack. A WMD event within the CONUS will represent a serious domestic crisis, requiring rapid, professional response. But again, a WMD event is not an act of God; it is a calculated attack against sovereignty and national security. The United States needs a dedicated, focused response capability to minimize the impact on American society and therefore reduce the benefit to be derived from use of such a tactic.

WMD are different; their physical and psychological effects are different and consequently the response to their use should not parallel that of a standard domestic response to a natural disaster. To facilitate USJFCOM response to the mission, there need to be some fundamental changes to the organization, legislation, and prioritization of forces used to confront this serious threat.

Organization

The current organization for response to a WMD incident was shown at Figure 1. It graphically portrayed the parallel command structure with a federal civilian side, headed by FEMA, and a DOD side headed by the Secretary of Defense and his executive agent, the Secretary of the Army acting as the Director of Military Support (DOMS). PDD-62's designation of a National Coordinator for Security, Infrastructure Protection and Counter-Terrorism did not create a command structure headed by this position, but rather it made the National Coordinator a central clearinghouse for information⁶⁰. A better structure would make the DOMS the focal point for crisis and consequence management of a WMD event with civil organizations in support. The military element, the primary supplier of resources, would then be in the direct command line of the central direction authority rather than

connected through a “dotted” line of coordination. The Commander of the Joint Task Force (JTF) for Civil Support will then be the on scene commander of the response effort. The JTF commander would then be able to marshal the needed resources and rapidly direct actions to mitigate the consequences of a WMD attack. The benefits would be two-fold, both tangible and intangible. The tangible benefits would be the response to physical needs, such as water and power restoration as well as containing the spread of contaminants. The intangible would come from the reassurance that the government was in control.

Professional active-duty soldiers provide that reassurance better than any other element available. As General Ralph Haines, Army Vice Chief of Staff in 1967 observed:

The appearance, smartness, and military discipline must be exemplary. The image they portray has a very decided effect on the rioters and on the confidence they create among the public....If you look strong and if you look as if you can do the job, then the public is going to have confidence in you...⁶¹

Legislation

The freedom of action required for the JTF commander to adequately tackle the requirements of a WMD response will require alteration of the Posse Comitatus. The Act will need to make a special authorization for federal military response to the use of a WMD in CONUS, properly treating it as a direct threat to national security requiring the immediate and unconstrained response of the federal government. The initial response requires unencumbered use of the military’s capabilities for the period required to secure the nation and then transition to local responsibility in the aftermath.

The US military has shown the ability to change chaos into order. During OPERATIONS RESTORE DEMOCRACY and UPHOLD DEMOCRACY in Haiti, U.S.

forces were able to restore order rapidly when given a free hand to operate. As observed by Daniel, Hayes, and Oudraat in their book Talons of the Dove:

“With the departure of (Haitian leaders) Cedras and Biamby, the US military Commander, Lieutenant General Hugh Shelton, became the *de facto* ruler of Haiti. The situation rapidly stabilized and US forces became engaged in tasks ranging from the maintenance of public order to organizing town meetings and restoring electricity.⁶²

If the American military could devote their best resources to address civil disorder in Haiti without constraint, it can certainly do the same for its own citizens.

Prioritization

The military is the best able to respond effectively to a WMD event. They have the equipment, training and personnel; they are self-supporting; and have experience operating in austere environments. Perhaps more importantly, the military has the confidence of the citizens they serve and would provide a reassuring response to a tragic violation of the country's security.

To further improve the response capability there need to be dedicated response elements on alert for immediate dispatch to an effected location. The elements need only have the same capabilities inherent in the military today, with nuclear, chemical and biological decontamination and treatment equipment and operating personnel. The alert force would also need military police and engineering capabilities. Most importantly, these force capabilities must always be available in the CONUS to secure the home front. Dedicated response forces need to be assigned to the USJFCOM JTF-Civil Support. Portions of these units should be on alert for immediate response. This is a reasonable step to address the significant national security threat WMD present.

CONCLUSION

The threat of a terrorist-type WMD attack on the United States has not gone unnoticed. But the response has been more rhetorical than credible. Legislation and military reorganization have been motivated as much by political considerations as by threat diminishment. The Posse Comitatus Act is used as both a constraint and an excuse to keep the military focused on preferred force-on-force missions.

The United States has traditionally resisted any threat to civil freedom, particularly from excessive domestic military power. At the same time Americans have always looked to their military to protect their vital interests. Today, those vital interests are threatened by attacks on the homeland and defense may require temporary compromise of traditional lines of demarcation between military action and military restraint.

The threat of a terrorist-type attack with WMD against a CONUS target is real. The ability to respond to the threat with a credible deterrent capability is less certain. The organization of forces is constrained by legislation, the effectiveness of the forces is sure to be compromised by the convoluted command structure, and relying on the reserve elements of national defense reduces the overall response readiness. A lesson of the Cold War was that constant vigilance pays off. Even though it may be expensive to make the commitment suggested, the cost of preparation will always be less than the cost of failure.

NOTES

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³ Ashton Carter and others, "Catastrophic Terrorism, Tackling the New Danger," Foreign Affairs, November/December 1988, 81.

⁴ Chairman, Joint Chiefs of Staff, National Military Strategy of the United States of America: Shape, Respond, Prepare Now: A Military Strategy for a New Era, (Washington, 1997), 14.

⁵ Sam Nunn, The Nuclear Roundtable: "Defense Against Weapons of Mass Destruction Act of 1996," July 1996. <<http://www.stimson.org/rd-table/nunnrtbl.htm>> (30 April 2000).

⁶ Hart-Rudman Commission, U.S. Commission on National Security for the 21st Century, (Washington: 15 April 2000), 7.

⁷ James Lee Witt, Director of FEMA, "One Year Later: James Lee Witt Reflects On Oklahoma City," Speeches, <<http://www.fema.gov/library/okcref.htm>> (13 May 2000), 1.

⁸ Department of State, Diplomatic Security Service, "World Trade Center Bombing," <<http://www.heroes.net/wldtrade.html>>, 1.

⁹ Archive Photo, FEMA, <<http://www.fema.gov/phlib/2942.jpg>>

¹⁰ Department of State, Diplomatic Security Service, "World Trade Center Bombing," <<http://www.heroes.net/wldtrade.html>>, 1.

¹¹ National Security Strategy, 1.

¹² President, Presidential Decision Document-39, "U.S. Policy on Counterterrorism," June 1995, <<http://www.fas.org/irp/offdocs/pdd39.htm>> (22 March 2000), 1.

¹³ *Ibid.*, 1.

¹⁴ *Ibid.*, 4.

¹⁵ *Ibid.*, 5.

¹⁶ *Ibid.*, 7.

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- ¹⁷ Ibid., 7.
- ¹⁸ Ibid., 7.
- ¹⁹ Ibid., 8.
- ²⁰ The White House, Fact Sheet: Combating Terrorism: Presidential Decision Directive 62, 1998 <<http://www.fas.org/irp/offdocs/pdd-62.htm>> (22 March 2000), 1.
- ²¹ Ibid., 1-2.
- ²² Ashton Carter and others, "Catastrophic Terrorism, Tackling the New Danger," Foreign Affairs, November/December 1988, 83.
- ²³ The Nuclear Roundtable: "Defense Against Weapons of Mass Destruction Act of 1996," July 1996. <<http://www.stimson.org/rd-table/nldact.htm>> (22 March 2000), 1.
- ²⁴ Ibid., 1.
- ²⁵ Sam Nunn, The Nuclear Roundtable: "Defense Against Weapons of Mass Destruction Act of 1996," July 1996. <<http://www.stimson.org/rd-table/nunnrtbl.htm>> (30 April 2000), 1.
- ²⁶ Ibid., 1-2.
- ²⁷ Ibid., 2.
- ²⁸ Ibid., 2.
- ²⁹ David Briscoe, "U.S. Ill-Prepared for Rogue Attacks; Threat is Not Being Addressed Panel Says," San Diego Union-Tribune, 10 July 1999, A-10.
- ³⁰ Secretary of Defense, Joint Staff, Extracts from Unified Command Plan, ed. Gerry Dillon, (U.S. Naval War College: September 1999), 12.
- ³¹ Ibid., 22.
- ³² Ibid., 23.
- ³³ Ibid., 23.
- ³⁴ Headquarters, US Atlantic Command, USCINACOM FUNCPLAN 2501-97, (Norfolk, VA, 2 February 1998), T-1-1.

³⁵ Department of Defense, Plan for Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction, (Washington: 1998), <<http://www.defenselink.mil/pubs/wmdresponse/>>, (3 May 2000), Ch. 5, 1-2.

³⁶ Ibid., Annex G, 1.

³⁷ 18 USC, Sec 1385.

³⁸ Dictionary.com, <<http://www.dictionary.com/cgi-bin/dict.pl?term=Posse%20Comitatus>>.

³⁹ Charles Doyle, "The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law," Congressional Research Service, (Washington, 1995), 9.

⁴⁰ James G. Diehl, "The Cop and the Soldier: An Entangling Alliance?," (U.S. Army War College, Carlisle PA: 1997), 2-10.

⁴¹ Ibid., 1-10.

⁴² Doyle, 6.

⁴³ U.S. Constitution, <<http://caselaw.findlaw.com/data/constitution/articles.html>>, Art I Section 8, Art II Sections 2 and 3.

⁴⁴ Alexander Hamilton and others, The Federalist, (New York: Grove Press, 1937), 182.

⁴⁵ James G. Diehl, "The Cop and the Soldier: An Entangling Alliance?," (U.S. Army War College, Carlisle PA: 1997), 1-10.

⁴⁶ Charles Doyle, "The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law," Congressional Research Service, (Washington, 1995), 30.

⁴⁷ Ibid., 2.

⁴⁸ Ibid., 2.

⁴⁹ Nolon J Benson, "The Posse Comitatus Act: Is There a Need for Change?," (U.S. Army War College, Carlisle Barracks PA: 7 May 1998), 6.

⁵⁰ Ibid., 6.

⁵¹ Ibid., 8.

⁵² Ibid., 9.

⁵³ Headquarters, US Atlantic Command, USCINACOM FUNCPLAN 2501-97, (Norfolk, VA, 2 February 1998), 12.

⁵⁴ *Ibit.*, T-1, T-2.

⁵⁵ *Ibit.*, T-2.

⁵⁶ *Ibit.*, T-3.

⁵⁷ Byron Lucas, "Superterrorism in the United States: Assessment and Recommendations," U.S. Naval War College, (19 May 1999), 12.

⁵⁸ Department of Defense, Plan for Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction, (Washington: 1998), Annex G, 2.

⁵⁹ Chairman, Joint Chiefs of Staff, National Military Strategy of the United States of America: Shape, Respond, Prepare Now: A Military Strategy for a New Era, (Washington, 1997), 9.

⁶⁰ The White House, Fact Sheet: Combating Terrorism: Presidential Decision Directive 62, <<http://www.fas.org.irp/offdocs/pdd-62.htm>> (22 March 2000), 2.

⁶¹ Diehl, 2-15.

⁶² Donald C. F. Daniel and others, Talons of the Dove: Coercive Inducement and the Containment Crises, (U.S. Naval War College, Newport RI: 1997), 139.

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